

**MINUTES
URBAN COUNTY PLANNING COMMISSION
SUBDIVISION ITEMS**

September 8, 2011

- I. **CALL TO ORDER** - The meeting was called to order at 1:33 p.m. in the Council Chambers, Urban County Government Building, 200 East Main Street, Lexington, Kentucky.

Planning Commission Members Present – Mike Owens, acting Chair; Marie Copeland; Frank Penn; Eunice Beatty; Carla Blanton; Derek Paulsen (departed at 3:01 PM); Patrick Brewer and Lynn Roche-Phillips. William Wilson and Mike Cravens were absent.

Planning Staff Present – Chris King; Bill Sallee; Barbara Rackers; Jimmy Emmons; Cheryl Gallt; Chris Taylor and Denice Bullock. Other staff members in attendance were: Hillard Newman, Division of Engineering; Jeff Neal, Division of Traffic Engineering; Captain Charles Bowen, Division of Fire & Emergency Services; Tim Queary, Division of Streets, Roads and Forestry; Debbie Barnett, Division of Water Quality and Rochelle Boland, Department of Law.

- II. **APPROVAL OF MINUTES** – The Chair reminded the members that the Planning Commission minutes of the August 11, 2011, meeting had been previously distributed to the Commission, and were ready to be considered at this time.

Action - A motion was made by Ms. Beatty, seconded by Ms. Roche-Phillips and carried 8-0 (Cravens and Wilson absent) to approve the minutes of the August 11, 2011, meeting.

- III. **POSTPONEMENTS OR WITHDRAWALS** – Requests for postponement and withdrawal will be considered at this time.

1. PLAN 2011-90F: COLDSTREAM RESEARCH CAMPUS, UNIT 3, LOTS 8, 9-A & 9-B (AMD) (10/30/11)* - located at 1676 & 1648 McGrathiana Parkway. (Council District 2) **(Strand Associates)**

Representation – Sara Tuttle, Strand Associates, was present representing the applicant, and requested postponement of PLAN 2011-90F: COLDSTREAM RESEARCH CAMPUS, UNIT 3, LOTS 8, 9-A & 9-B (AMD) to the October 13, 2011, Planning Commission meeting.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Paulsen, and carried 8-0 (Cravens and Wilson absent) to postpone PLAN 2011-90F: COLDSTREAM RESEARCH CAMPUS, UNIT 3, LOTS 8, 9-A & 9-B (AMD) to the October 13, 2011, Planning Commission meeting.

2. PLAN 2011-74F: SABLE HOLDINGS II, LLC. (9/25/11)* - located at 615-617 West Short Street. **(2020 Land Surveying)**
(Council District 2)

Staff Comments – Mr. Emmons said that the staff had received an email correspondence from the applicant, requesting indefinite postponement of PLAN 2011-74F: SABLE HOLDINGS II, LLC.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for postponement. There was no response.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Brewer, and carried 8-0 (Cravens and Wilson absent) to indefinitely postpone PLAN 2011-74F: SABLE HOLDINGS II, LLC.

- IV. **LAND SUBDIVISION ITEMS** - The Subdivision Committee met on Thursday, September 1, 2011, at 8:30 a.m. The meeting was attended by Commission members: Derek Paulsen, Eunice Beatty, Mike Owens and Marie Copeland. Committee members in attendance were: Hillard Newman, Division of Engineering; and Jeff Neal, Division of Traffic Engineering. Staff members in attendance were: Chris King, Jim Duncan, Bill Sallee, Tom Martin, Cheryl Gallt, Chris Taylor, Denice Bullock, Jimmy Emmons, Barbara Rackers and Traci Wade, as well as Captain Charles Bowen, Division of Fire & Emergency Services; Debbie Barnett, Division of Water Quality and Rochelle Boland, Law Department. The Committee made recommendations on plans as noted.

General Notes

The following automatically apply to all plans listed on this agenda unless a waiver of any specific section is granted by the Planning Commission.

1. *All preliminary and final subdivision plans are required to conform to the provisions of Article 5 of the Land Subdivision Regulations.*
2. *All development plans are required to conform to the provisions of Article 21 of the Zoning Ordinance.*

- A. **CONSENT AGENDA - NO DISCUSSION ITEMS** – Following requests for postponement or withdrawal, items requiring no discussion will be considered.

* - Denotes date by which Commission must either approve or disapprove plan.

- Criteria:**
- (1) the Subdivision Committee recommendation is for approval, as listed on this agenda; and
 - (2) the Petitioner is in agreement with the Subdivision Committee recommendation and the conditions listed on the agenda; and
 - (3) no discussion of the item is desired by the Commission; and
 - (4) no person present at this meeting objects to the Commission acting on the matter without discussion; and
 - (5) the matter does not involve a waiver of the Land Subdivision Regulations.

- Requests can be made to remove items from the Consent Agenda:**
- (1) due to prior postponements and withdrawals,
 - (2) from the Planning Commission,
 - (3) from the audience, and
 - (4) from Petitioners and their representatives.

At this time, the Chair requested that the Consent Agenda items be reviewed. Mr. Sallee identified the following items appearing on the Consent Agenda, and oriented the Commission to the location of these items on the regular Meeting Agenda. He noted that the Subdivision Committee had recommended conditional approval of these items, and the other item listed had been recommended for a one-year extension. (A copy of the Consent Agenda is attached as an appendix to these minutes).

1. PLAN 2011-79F: MICHAEL GENTRY PROPERTY (AMD) (9/28/11)* - located at 3292 Richmond Road.
(Council District 7) **(Vision Engineering)**

Note: The purpose of this amendment is to subdivide one lot into two lots.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Approval of street addresses as per e911 staff.
 5. Urban Forester's approval of tree protection area(s) and the required street tree information.
 6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
 7. Document right-of-way acquisition from LFUCG.
 8. Add effective date to FEMA Map Information.
 9. Add directional tic marks for street access easement and cross-sections.
 10. Correct street and access easement cross-sections.
 11. Add retaining wall maintenance responsibility (per PC "N," SL 419 & PC "N," SL 641).
2. PLAN 2011-81F: RIDDELL PLAZA (AMD) (9/28/11)* - located at 301 and 313 Burley Avenue.
(Council District 11) **(EA Partners)**

Note: The Planning Commission postponed this plan at the August 11, 2011, meeting. The purpose of this amendment is to consolidate the previously recorded Lots 1 & 4, establish a 20' building line and remove the screening easement.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
 2. Urban County Traffic Engineer's approval of street cross-sections and access.
 3. Building Inspection's approval of landscaping and landscape buffers.
 4. Approval of street addresses as per e911 staff.
 5. Urban Forester's approval of tree protection area(s) and required street tree information.
 6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
 7. Denote: This property shall be developed in accordance with the approved final development plan.
 8. Denote: On June 25, 1993, the Board of Adjustment approved a variance for parking in the front yard (CV-93-52).
 9. Remove the LFUCG property or document ownership of the Burley Park property.
 10. Resolve extent of storm water retention easement.
3. PLAN 2011-91F: LANSLOWNE SUBDIVISION, UNIT 8-B, LOT 15 (AMD) (10/30/11)* - located at 3348 Nantucket Drive. (Council District 4) **(2020 Land Surveying)**

Note: The purpose of this amendment is to amend the recorded building line on 3348 Nantucket Drive from 45' to 40.'

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Correct building line setback on adjacent property (45').

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5. Correct engineer's and surveyor's certifications per Article 5-4(h)(2) of the Land Subdivision Regulations.
6. Addition of name and address of property owner on plan.
7. Addition of radius information for right-of-way corner.
8. Addition of private utility companies.
9. Denote street frontage in site statistics.
10. Correct Nantucket cross-section dimension to 27 feet.
11. Addition of sanitary sewer easement.

4. PLAN 2011-92F: CALUMET TERRACE SUBDIVISION, LOTS 7 & 9 (AMD) (10/30/11)* - located at 1324 Viley Road.
(Council District 11) **(Endris Engineering)**

Note: The purpose of this amendment is to dedicate the public right-of-way and appropriate easements.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Division of Fire's approval of gate information and emergency access.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.

5. PLAN 2011-93F: GESS PROPERTY, UNIT 6-H (10/30/11)* - located at Needlerush Drive and Larkhill Lane.
(Council District 7) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
7. Addition of adjacent property information.
8. Addition of exaction information to the approval of the Division of Planning.
9. Dimension sanitary sewer easement along Needlerush Drive.
10. Denote continuation of utility easement from Gess, Unit 6-F (per PC "N," SL. 730).

6. PLAN 2011-94F: GESS PROPERTY, UNIT 11-E (10/30/11)* - located on Foxglove Point.
(Council District 7) **(EA Partners)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping.
4. Approval of street addresses as per e911 staff.
5. Urban Forester's approval of tree protection area(s) and required street tree information.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
8. Addition of exaction information to the approval of the Division of Planning.
9. Clarify sidewalk on cross-section "F-F."

7. PLAN 2010-82F: GESS PROPERTY, UNIT 7-A, SECTION 2 (AMD) (10/31/10)* - located at 4115 Sperling Drive.
(Council District 7) **(EA Partners)**

Note: The Planning Commission originally approved this plan on September 9, 2010, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and required street tree information.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection area(s).
6. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.

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7. Remove Unit 4-H, Section 2 from plan.
8. Correct site statistics and plan title.
9. Complete exaction information to the approval of the Division of Planning.

Note: The applicant now requests a one-year extension of the Commission's prior approval.

The Subdivision Committee Recommended: **Approval of a one-year extension**, subject to the previous conditions, deleting condition #7.

8. DP 2011-65: BAPTIST HEALTHCARE SYSTEM, INC. (CENTRAL BAPTIST) (AMD) (9/27/11)* - located at 1740 Nicholasville Road. (Council District 4) **(HDR, Inc.)**

Note: The purpose of this amendment is to add access to the adjacent property.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Resolve the extent of proposed improvements on the adjacent property, and owner's agreement.

9. DP 2011-76: KIRKLEVINGTON NORTH (AMD) (10/30/11)* - located at 3391 Tates Creek Road. **(LS Design Group)**
(Council District 4)

Note: The purpose of this amendment is to revise the site layout, relocate the drive-through lane and related site improvements.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Label floodplain in southwest corner of property.
10. Resolve need for action by the Floodplain Appeals Committee.
11. Clarify floor area site statistics to match as built building.
12. Revise note #14 to indicate existing underground storm water infrastructure located in FEMA floodway.

10. DP 2011-77: SHARKEY PROPERTY, UNIT 1, LOTS 9 & 18 (AMD) (10/30/11)* - located at 125 Louie Place. **(CMW, Inc.)**
(Council District 2)

Note: The purpose of this amendment is to add an extended-stay hotel to Lots 9 and 18.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Denote construction access location.
9. Document encroachment agreement.

11. DP 2011-78: LAKEVIEW ESTATES, UNIT 2, BLK J, LOT 7 & BLK K, LOTS 2, 2-E & 3 (AMD) (10/30/11)* - located at 475, 503 and 519 Laketower Drive. (Council District 5) **(Barrett Partners)**

Note: The purpose of this amendment is to add buildable area for a fitness center, revise parking and circulation and to permit redevelopment of Manor Drive.

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The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Correct metes & bounds (curve data) information.
9. Clarify note #11 regarding the off-site detention.
10. Resolve the gate house/easement conflicts.
11. Division of Parks and Recreation's approval of proposed off-site parking.
12. Resolve the median changes and gate house in Seton Drive right-of-way and gate house in Manor Drive.
13. Resolve timing of the development with street closure and any possible need for a waiver to the Land Subdivision Regulations.

In conclusion, Mr. Sallee said that the items listed on the Consent Agenda could be considered for conditional approval at this time by the Commission, unless there was a request for an item to be removed for discussion purposes.

Consent Agenda Discussion – Mr. Owens asked if anyone in the audience or on the Commission desired further discussion of any of the items listed on the Consent Agenda. With no response from the audience, Mr. Owens requested that DP 2011-78: LAKEVIEW ESTATES, UNIT 2, BLK J, LOT 7 & BLK K, LOTS 2, 2-E & 3 (AMD) be removed from the Consent Agenda for further discussion by the Commission.

Action - A motion was made by Mr. Brewer, seconded by Mr. Paulsen, and carried 8-0 (Cravens and Wilson absent) to approve the remaining items listed on the Consent Agenda.

- B. DISCUSSION ITEMS** – Following requests for postponement, withdrawal and no discussion items, the remaining items will be considered.

The procedure for consideration of these remaining plans is as follows:

- Staff Report(s)
- Petitioner's Report(s)
- Citizen Comments – (a) in support of the request, and (b) in opposition to the request
- Rebuttal – (a) petitioner's comments, (b) citizen comments, and (c) staff comments
- Commission discusses and/or votes on the plan

1. FINAL SUBDIVISION PLANS

- a. PLAN 2011-95F: TUSCANY, UNIT 6, SECTION 1 (AMD) (10/30/11)* - located on Old Rosebud Road.
(Council District 6) **(EA Partners)**

Note: The purpose of this amendment is to revise the street cross-section.

The Subdivision Committee Recommended: **Postponement**. There were some questions about the requested waiver to the Land Subdivision Regulations.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Urban Forester's approval of tree protection area(s) and required street tree information.
4. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Correct note #3 to remove 1-year reference.
7. Provided the Planning Commission grants a waiver to Article 6-8(n)(1) of the Land Subdivision Regulations pertaining to sidewalks.

Staff Presentation – Mr. Martin identified this final record plat on the regular Meeting Agenda, and said that the purpose of this request will extend Old Rosebud Road from the intersection of Villa Medici Pass and Ogden Way to Flying Ebony Drive. He directed the Commission's attention to a rendered zoning map for the area, and briefly oriented them to the surrounding street system, as well as to the current uses within the general vicinity.

Mr. Martin then directed the Commission's attention to the rendered amended Final Record Plat to reorient them to the location of the Old Rosebud Road extension. He said that Old Rosebud Road abuts the rear of an existing single family

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lot and an HOA lot in the adjacent West Wynd subdivision. He noted that the Planning Commission had recently approved the development of a nursing home/assisted living facility on Lot 2 and an apartment complex on Lot 1.

Mr. Martin noted to the Commission that the waiver report and two supportive email correspondences from residents of the West Wynd subdivision were previously handed out. (A copy of these items is attached as an appendix to these minutes). He said that the applicant is requesting a waiver to Article 6-8(n)(1) of the Land Subdivision Regulations, which requires a sidewalk to be provided on both sides of a public street. He said that Old Rosebud Road is a collector street, and will eventually connect to Liberty Road, as well as serve the future development on Tuscany, Unit 6. He indicated that the Old Rosebud Road connection has been noted on past development plans, as well as being depicted in the 2007 Comprehensive Plan.

Mr. Martin said that the requested waiver would allow the proposed extension of Old Rosebud Road to be completed without the required sidewalk on the southern side. He noted that there will be a sidewalk on the northern side of Old Rosebud Road. The applicant has cited severe hardship based upon the steep topography of the land along the southern boundary of this collector street. He said that if the sidewalk were to be built, it would require a platform, which would necessitate the need for a retaining wall to be constructed in two locations. One wall, approximately 200' in length, will need to be 2' above grade and will face the West Wynd subdivision lots nearer to the corner of Ogden Way and Old Rosebud Road. The second wall, approximately 240' in length, would vary in height between 5' to 7.5' above grade and would face the lots near the corner of Flying Ebony Drive and Old Rosebud Road. Should the Commission deny the requested waiver, the retaining wall would be constructed in the right-of-way, which raised additional concerns with the staff.

Mr. Martin said that the staff had met with the Division of Traffic Engineering and the Division of Engineering to consider what other pedestrian routes were available if the sidewalks were not installed. He noted that there are established street systems and sidewalks throughout the adjacent neighborhoods, as well as a greenway that includes a trail system in the general area. Mr. Martin explained that once Old Rosebud Road is constructed, the road would have 70 feet of right-of-way with 40 feet of pavement, as well as an 8-foot utility strip. There would be a 6-foot sidewalk on the northern side of the street for pedestrian movements.

Mr. Martin said that the staff concurs with the applicant's justification, that there is an issue with the steep slopes on the southern boundary; but the staff was also concerned with providing pedestrian movement along and across Old Rosebud Road. The staff did not see the benefit of a partial sidewalk on the southern side of Old Rosebud Road and felt it was appropriate to completely remove the sidewalk, given the two retaining walls necessary for its construction. He said that the 4-way intersection at Old Rosebud Road and Ogden Way will provide the opportunity for safe pedestrian movement as this intersection will have signage and crosswalks or other similar method to ensure pedestrian safety. As for the future connection of Old Rosebud Road and Flying Ebony Way, the staff believes this intersection should be handled in the same fashion, to include a pedestrian connection to the greenway trail. He indicated that even though Flying Ebony Way has not been constructed yet, and the timing of that road is unknown, a surety has been collected to ensure that connection will be made. He noted that the Greenway Master Plan does identify Old Rosebud Road as being part of the greenway trail system that connects to Sir Barton Way.

In conclusion, Mr. Martin said that, at the Subdivision Committee meeting, the applicant's request for the waiver was still being reviewed by the staff, and this is what led the Subdivision Committee to recommend postponement. However, since that time, the staff has completed their review of the proposed request and is in agreement with the applicant. Therefore, the staff is recommending approval of PLAN 2011-95F: TUSCANY, UNIT 6, SECTION 1 (AMD), subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Urban Forester's approval of tree protection area(s) and required street tree information.
4. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Correct note #3 to remove 1-year reference.
7. Provided the Planning Commission grants a waiver to Article 6-8(n)(1) of the Land Subdivision Regulations pertaining to sidewalks.

Mr. Martin then said that the staff is also recommending approval of the requested waiver to Article 6-8(n)(1) of the Land Subdivision Regulations, for the following reasons:

1. The requested waiver would relieve an exceptional hardship for the applicant, due to the steep slopes in the area and the necessity of constructing two retaining walls to allow a sidewalk to meet this topographic constraint.
2. Granting the waiver will minimize visual impacts to adjoining property owners, while ensuring public safety for area pedestrians.

He indicated that this recommendation is made subject to the following additional requirements:

- a. Denote: The applicant shall provide the appropriate signage, crosswalks or other methods necessary to encourage pedestrians and others to utilize the intersection of Old Rosebud Road and Ogden Way in crossing Old Rosebud Road, to the approval of Traffic Engineering and the Pedestrian Planner.
- b. Denote: At the time of the construction of the intersection of Old Rosebud Road and Flying Ebony Drive, the applicant shall provide the appropriate signage, crosswalks or other methods necessary to increase pedestrian safety, to the approval of Traffic Engineering and the Pedestrian Planner.

Planning Commission Questions – Ms. Roche-Phillips said that the two email correspondences reference landscape screening, particularly trees along the southern boundary, and asked if the developer would be installing trees in lieu of the sidewalk. Mr. Martin said that the staff is unaware as to whether or not the developer intends to install landscape screening along the southern boundary of Old Rosebud Road. He then said that the majority of the land between the curb and the residential lots is in the right-of-way, and this poses an additional concern with who would be responsible for maintaining that area.

Ms. Roche-Phillips said that there is no ordinance requiring landscape screening in lieu of a sidewalk. Mr. Martin said that the staff did not feel it was necessary to have additional landscaping, but the Commission could recommend additional screening as part of their approval, if desired.

Ms. Copeland said that there is a nursing home on the northern side of Old Rosebud Road, and there are single family residential lots on the southern side of Old Rosebud Road. She indicated that during her site visit, she had noticed, on the southern side of Old Rosebud Road, the extreme amount of cut and fill that had been done, and asked for an explanation. Mr. Martin referred the question to the applicant's representative.

Ms. Copeland then said that the amount of cut and fill that has been done to this area has changed the topography of the land. She then said that the topography of the land has provided an opportunity for an underpass for Old Rosebud Road to help with pedestrian movement, and asked if that could be possible. Mr. Martin said that that could be possible in the future, but the greenway system is off site and not part of this request. Ms. Copeland said that building Flying Ebony Way is not part of this request, but a requirement was made to have it constructed. Mr. Martin said that the greenway connection is more connected to Flying Ebony Way than Old Rosebud Road. Ms. Copeland said that it appears that if a disclaimer can be added to Flying Ebony Way, then a disclaimer could also be added for the underpass.

Ms. Copeland said that if a retaining wall were to be constructed for Old Rosebud Road, there would be an increase in the soil erosion long the stream adjacent to the single family lots. Mr. Martin said that that is an aspect of the topography problem in this area, and the applicant is not requesting to build the retaining walls.

Mr. Penn asked why the bonding for Flying Ebony Way was mentioned if it is not part of this request. Mr. Martin said that the staff feels that that connection is important and the intersection will have a bearing on pedestrian safety and movement. He said that Flying Ebony Way has been bonded, and the applicant could bond parts of Old Rosebud Road as well.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He noted that the section of Flying Ebony Way in question is bonded by different developers. He said that they are in agreement with the staff's recommendations, and requested approval.

Planning Commission Questions – Ms. Copeland asked if the single family lots were sold prior to the construction of Old Rosebud Road. Mr. Kahly replied yes, and said that when there is a proposal for a road, the plat would show the necessary easements, but these lots were recorded without easements. He then said that under normal circumstances a lot only has one sidewalk at the front of the lot, but that would not be the case with these lots. These lots have double frontage, which requires a sidewalk at the front and a sidewalk at the rear. He noted that the property owners of these lots would be responsible for maintaining both front and rear sidewalks.

Ms. Copeland said that it's only fair to the property owners that some type of compensation or remediation is done. She said that the steep slopes will become problematic due to erosion or upkeep. She asked what suggestions could be offered to make the view not so much an eyesore. Mr. Kahly said that, with the approval of Traffic Engineering, the developer is agreeable to plant trees; however, the property owners would still be responsible for the upkeep of those trees. He then said that the lots along this area are established and they do not want to further re-grade the area. Ms. Copeland said that there is a concern with the slopes eroding. Mr. Kahly said that the slopes have been seeded with grass.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for approval. There was no response.

Planning Commission Discussion – Ms. Copeland said that it is imperative to have an underpass for Old Rosebud Road, and there needs to be some type of landscaping in place for the steep slopes along Old Rosebud Road.

Mr. Owens said that the underpass is off site, and asked if that issue would be addressed with a future development plan. Mr. Martin replied affirmatively, and said that the underpass would be associated with the master plan for the greenway and trail systems.

Ms. Beatty asked if the two email correspondences are from residents of the West Wynd subdivision. Mr. Martin replied affirmatively. Ms. Beatty then asked how many lots would be impacted with this proposal. Mr. Martin said that there are nine residential lots that will be impacted, as well as one HOA lot. He then said that the retaining wall would only impact the last two lots at each end of Old Rosebud Road. Ms. Beatty asked if the staff had received any other responses from the West Wynd residents. Mr. Martin replied negatively, and said that the staff had tried to contact the attorney who represented the home owner's association during the Trilogy case, and had received no response.

Mr. Owens confirmed that the "Trilogy case" was for the nursing home and assisted facility located across Old Rosebud Road. Mr. Martin replied affirmatively.

Mr. Penn asked if the fill dirt is within an easement and who is responsible for its maintenance. Mr. Martin said that until the construction is completed, the developer is responsible until it is transferred to the City. Mr. Penn asked what will be required before the City will accept responsibility. Mr. Martin referred the question to the Division of Engineering, noting that the Engineering Manuals state the typical protocol and what would be required.

Action - A motion was made by Mr. Brewer, seconded by Ms. Beatty, and carried 8-0 (Cravens and Wilson absent) to approve PLAN 2011-95F: TUSCANY, UNIT 6, SECTION 1 (AMD), subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Urban Forester's approval of tree protection area(s) and required street tree information.
4. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
5. Addition of utility and street light easements as required by the utility companies and the Urban County Traffic Engineer.
6. Correct note #3 to remove 1-year reference.
7. Provided the Planning Commission grants a waiver to Article 6-8(n)(1) of the Land Subdivision Regulations pertaining to sidewalks.

And to approve the requested waiver to Article 6-8(n)(1) of the Land Subdivision Regulations, for the following reasons:

1. The requested waiver would relieve an exceptional hardship for the applicant, due to the steep slopes in the area and the necessity of constructing two retaining walls to allow a sidewalk to meet this topographic constraint.
2. Granting the waiver will minimize visual impacts to adjoining property owners, while ensuring public safety for area pedestrians.

This recommendation is made subject to the following additional requirements:

- a. Denote: The applicant shall provide the appropriate signage, crosswalks or other methods necessary to encourage pedestrians and others to utilize the intersection of Old Rosebud Road and Ogden Way in crossing Old Rosebud Road, to the approval of Traffic Engineering and the Pedestrian Planner.
- b. Denote: At the time of the construction of the intersection of Old Rosebud Road and Flying Ebony Drive, the applicant shall provide the appropriate signage, crosswalks or other methods necessary to increase pedestrian safety, to the approval of Traffic Engineering and the Pedestrian Planner.

2. DEVELOPMENT PLANS

- a. DP 2011-62: RIDDELL PLAZA, LOTS 1 & 4 (9/5/11)* - located at 301 and 313 Burley Avenue.
(Council District 11) **(EA Partners)**

Note: The Planning Commission postponed this plan at the July 14, 2011 and August 11, 2011, meetings.

The Subdivision Committee Recommended: Postponement. There were questions about compliance with the minimum open space requirements.

Should this plan be approved, the following requirements should be considered:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire's approval of emergency access and fire hydrant locations.
9. Division of Waste Management's approval of refuse collection.

* - Denotes date by which Commission must either approve or disapprove plan.

10. Denote: Signage will comply with Article 17 of the Zoning Ordinance.
11. Denote: On June 25, 1993, the Board of Adjustment approved a variance for parking in the front yard (CV-93-52).
12. Provide at least a 6' landscape buffer for zone-to-zone screening.
13. Identify existing significant trees, as necessary.
14. Revise notes #5, #7, #9 & #14.
15. Addition of existing and proposed easements.
16. Provided the Planning Commission approves an amended Final Record Plat that addresses the conflicts with the building line setback and the existing easements prior to certification.
17. Discuss compliance with Article 15-7 of the Zoning Ordinance (infill regulations).
18. Discuss the provision of useable open space.
19. Discuss the possible need for storm water improvements in the area.
20. Discuss LFUCG ownership of Burley Park.

Staff Presentation – Mr. Emmons identified this development plan on the regular Meeting Agenda, and noted that the staff had previously distributed a revised recommendation to the Commission for their review.

Mr. Emmons directed the Commission's attention to the rendered development plan, and said that the subject property is located at 301 & 313 Burley Avenue, which is just off South Broadway, between Virginia Avenue and Waller Avenue. He then directed the Commission's attention to an aerial photograph and briefly oriented them to the location of the subject property and surrounding street system, noting that this proposal consists of two parcels. He said that Lot 1 (313 Burley Avenue) is currently a church with parking to the side and rear; and Lot 4 (303 Burley Avenue) is Burley Park, which is owned by the Lexington-Fayette Urban County Government. He then said that the applicant has proposed to relocate Burley Park to property controlled by the applicant on Legion Avenue, but this can not be done unless the Urban County Council approves the proposed relocation.

Mr. Emmons said that the Subdivision Committee reviewed this request, and recommended postponement due to questions concerning compliance with the minimum useable open space requirements. He then said that the staff had received a revised plan that addressed several "clean up" conditions, as well as an exhibit that shows the required open space area, landscaping and zone-to-zone screening. Mr. Emmons directed the Commission's attention to the revised staff recommendation, and said that condition #10 requires the Planning Commission to approve the amended Final Record Plat for these properties (PLAN 2011-81F: RIDDELL PLAZA (AMD)), which was previously done with the conditional approval of the Consent Agenda.

Mr. Emmons said that all residential development in the Infill and Redevelopment Area is subject to certain design standards, and these standards are listed in Article 15-7(a) and Article 15-7(b) of the Zoning Ordinance. He briefly explained that Article 15-7(a) are the standards for all new residential structures and Article 15-7(b) lists the applicable standards for all group residential projects. This proposal will be a 3-story apartment complex on one lot; therefore, only Article 15-7(a) of the Zoning Ordinance applies. He noted that if Article 15-7(b) were to be applied, this proposal would meet all but two of those requirements. Thus, it is well within the spirit of these requirements, as well. In reviewing the applicant's request, the staff finds this proposal to be in compliance with the Zoning Ordinance.

Mr. Emmons said that in reviewing the building design and layout of the property, the applicant is proposing parking to the side and rear of the apartment building. There will be no parking along the frontage of Burley Avenue. This type of layout and design will be keeping with the existing styles of adjacent buildings on Burley Avenue, as well as those in the immediate area.

Mr. Emmons then said that the applicant is required to show all useable open space on the proposal; and with the revised submittal, the applicant has shown a recreational/playground area at the rear of the site, and has provided the necessary open space calculations on the plan (condition #18).

Mr. Emmons said that since this request is within the Vaughn Branch watershed area, staff was concerned with the possible need for storm water improvements. He then said that the staff wanted the applicant to research this area to see whether or not there is a flooding problem. The applicant had submitted a drainage study, noting the results, and the existing detention basin for the church will need to increase in size as shown on the revised submittal. By increasing the size of the basin, it will also help with the open space requirements.

Mr. Emmons stated again that when this request was filed, there were questions as to whether or not Burley Park would be relocated to Legion Avenue. He then said should the Council approve the relocation of the Park, the applicant would need to document the ownership of it prior to plan certification.

In conclusion, Mr. Emmons said that the staff is recommending approval of this request, subject to the following revised conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.

4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire's approval of emergency access and fire hydrant locations.
9. Division of Waste Management's approval of refuse collection.
- ~~10. Denote: Signage will comply with Article 17 of the Zoning Ordinance.~~
- ~~11. Denote: On June 25, 1993, the Board of Adjustment approved a variance for parking in the front yard (CV 93-52).~~
- ~~12. Provide at least a 6' landscape buffer for zone-to-zone screening.~~
- ~~13. Identify existing significant trees, as necessary.~~
- ~~14. Revise notes #5, #7, #9 & #14.~~
- ~~15. Addition of existing and proposed easements.~~
10. 16. Provided the Planning Commission approves an amended Final Record Plat that addresses the conflicts with the building line setback and the existing easements prior to certification.
11. 17. Document Discuss compliance with Article 15-7 of the Zoning Ordinance (infill regulations).
- ~~18. Discuss the provision of useable open space.~~
- ~~19. Discuss the possible need for storm water improvements in the area.~~
12. 20. Document Discuss LFUGG ownership of Burley Park prior to plan certification.

Planning Commission Discussion – Mr. Brewer asked if condition #10 had been resolved; and if so, if that condition could be removed. Mr. Emmons said that condition #10 has been resolved, and it could either remain or be removed from the list of conditions.

Mr. Penn asked if condition #20 should be changed to "document" rather than leaving it as a discussion item. Mr. Emmons said that in reviewing the revised recommendations, the applicant would need to document the ownership of the Burley Park prior to certification of this plan by the Commission's secretary.

Mr. Owens asked if the rear elevation is similar to the front elevations. Mr. Emmons replied affirmatively. Mr. Owens then asked if the Commission should address the timing for construction of the proposed park. Mr. Emmons said that the timing regarding the park would be taken care of through Council action. He noted that when the applicant documents the ownership of Burley Park, those details will be included.

Ms. Roche-Phillips asked what the property is zoned. Mr. Emmons said that the subject property and the existing Park are both in a High Density Apartment (R-4) zone.

Representation – Rory Kahly, EA Partners, was present representing the applicant. He noted that Burley Park will be relocated to 318 Legion Avenue. He said that they are in agreement with the staff's recommendations, and requested approval of this plan.

Planning Commission Questions – Ms. Copeland said that there is a downward slope from Burley Avenue to the rear of the property, and asked how the building can be placed on this slope. Mr. Kahly said that the architect would design the layout of the building on the property to accommodate the slope, and portions might have to be stair-stepped, for instance.

Mr. Paulsen asked where the park would be located on Legion Avenue. Mr. Kahly said that the park would be located across from the Arby's restaurant.

Ms. Beatty asked how the existing park is utilized. Mr. Kahly said that there is a basketball court, and there are some playground equipment in the back. He said that Burley Park is underutilized, and the new location will be more appealing and visible to the public.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for approval. There was no response.

Action - A motion was made by Ms. Blanton, seconded by Mr. Paulsen, and carried 8-0 (Cravens and Wilson absent) to approve DP 2011-62: RIDDELL PLAZA, LOTS 1 & 4, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Bike and Pedestrian Planner's approval of bike trails and pedestrian facilities.
8. Division of Fire's approval of emergency access and fire hydrant locations.
9. Division of Waste Management's approval of refuse collection.

10. Provided the Planning Commission approves an amended Final Record Plat that addresses the conflicts with the building line setback and the existing easements prior to certification.
 11. Document compliance with Article 15-7 of the Zoning Ordinance (infill regulations).
 12. Document ownership of Burley Park prior to plan certification.
- b. DP 2011-78: LAKEVIEW ESTATES, UNIT 2, BLK J, LOT 7 & BLK K, LOTS 2, 2-E & 3 (AMD) (10/30/11)* - located at 475, 503 and 519 Laketower Drive. (Council District 5) **(Barrett Partners)**

Note: The purpose of this amendment is to add buildable area for a fitness center, revise parking and circulation and to permit redevelopment of Manor Drive.

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Correct metes & bounds (curve data) information.
9. Clarify note #11 regarding the off-site detention.
10. Resolve the gate house/easement conflicts.
11. Division of Parks and Recreation's approval of proposed off-site parking.
12. Resolve the median changes and gate house in Seton Drive right-of-way and gate house in Manor Drive.
13. Resolve timing of the development with street closure and any possible need for a waiver to the Land Subdivision Regulations.

Staff Presentation – Mr. Martin identified this development plan amendment on the regular Meeting Agenda, and directed the Commission's attention to an aerial photograph and to the location of the subject property and surrounding street system. He then directed the Commission's attention to the rendered amended development plan, noting that the purpose of this amendment is to add buildable area for a fitness center, revise parking and circulation and to permit redevelopment along Manor Drive.

Mr. Martin said that this property had been abandoned for a time, and the applicant wants to rehabilitate the property and remodel the apartment buildings. The complex will consist of 195 apartments, ranging from one to four bedroom units, and there will be associated parking throughout the property.

Mr. Martin said that the applicant is proposing improvements to two public rights-of-way into this site. The first improvement will be to Seton Drive, and it will consist of median changes that will help control traffic, as well as provide a gate house at the entrance of the apartment complex. He noted that for the Seton Drive improvements, the applicant will need an encroachment permit. The second improvement will be to Manor Drive. He said that the applicant is proposing to close a portion of Manor Drive as a public street, which would then allow the parking and circulation to be revised at the rear of the apartment complex. He noted that the applicant is in the process of having the closure of Manor Drive placed on the Council docket for their review. Along with the Manor Drive physical improvements, the applicant will have a designated parking area for Lakeview Park that is located just off site. He said that this pavement will still remain as an access easement to allow vehicular movement throughout the area – maintaining emergency services.

Mr. Martin said that the Subdivision Committee reviewed the applicant's request and recommended approval of this plan. He briefly explained that this proposal does have "clean up" items that need to be addressed, as well as a few items that need to be resolved. He then said that the applicant is proposing to construct an unoccupied gate house on Manor Drive; however, there is a utility easement conflict near Lakeview Park (condition #10) that needs to be addressed. Mr. Martin then said that the applicant will need to obtain the Division of Parks and Recreation's approval for the off-site parking being proposed on Manor Drive (condition #11). He noted that the applicant will need to resolve the timing of the development with the street closure and any possible need for a waiver to the Land Subdivision regulations. He said that the improvements to Seton Drive will include the median changes, which will require an encroachment permit (condition #12). The applicant is also proposing to construct an unoccupied gate house at this location.

Mr. Martin said that the Council will need to take action on closing Manor Drive, at which time the applicant will need to submit a minor plat to the staff for an easement to be established for public access. He noted that this property has two public accesses into the development; and the staff was concerned with keeping both accesses open, as well as providing public service to this area. He said that once the plat has been submitted and approved, the access easement will be noted on this development plan prior to certification (condition #13).

Mr. Martin said that the staff is recommending approval, subject to the following conditions:

* - Denotes date by which Commission must either approve or disapprove plan.

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Correct metes & bounds (curve data) information.
9. Clarify note #11 regarding the off-site detention.
10. Resolve the gate house/easement conflicts.
11. Division of Parks and Recreation's approval of proposed off-site parking.
12. Resolve the median changes and gate house in Seton Drive right-of-way and gate house in Manor Drive.
13. Resolve timing of the development with street closure and any possible need for a waiver to the Land Subdivision Regulations.

Representation – Tony Barrett, Barrett Partners, was present representing the applicant. He said that they have met with the different utility providers and the LFUCG staff regarding Manor Drive. They have submitted plans to the staff showing the modification to Manor Drive, and they are preparing to apply for an encroachment permit for Seton Drive.

Mr. Barrett briefly described what is being done on the property to bring it into compliance with the current building codes, as well as what amenities will be provided to the residents of the apartments. He said that they have worked with the Division of Parks and Recreation to help with the off-street parking and the trail connection through Lakeview Park. He then said that they are in agreement with the staff's recommendations, and requested approval of this plan. He noted that there are residents from the nearby townhouse development present, who may want to speak about this proposal – hopefully in favor.

Planning Commission Questions – Ms. Copeland asked if the developer has done other projects in Lexington. Mr. Barrett replied affirmatively, and noted that the developer has had completed several projects in Lexington, such as the Beaumont Farm Apartments. He said that the developer of this property has experience in rehabilitating historic structures, as well.

Ms. Roche-Phillips said that she applauds the developer in taking an existing property and making it more livable. She said that she is excited that this development is moving along.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for approval. There was no response.

Planning Commission Discussion - Mr. Owens said that the Commission often talks about infill and redevelopment in Lexington, and this site is outside of that designated area. He then asked if the applicant is also rehabilitating the adjoining property. Mr. Barrett replied affirmatively, noting that the applicant had purchased these properties together. Some of the buildings were torn down while the other were retained.

Ms. Beatty commented that there are several larger apartment buildings in Lexington that could also be rehabilitated.

Action - A motion was made by Ms. Roche-Phillips, seconded by Ms. Beatty, and carried 8-0 (Cravens and Wilson absent) to approve DP 2011-78: LAKEVIEW ESTATES, UNIT 2, BLK J, LOT 7 & BLK K, LOTS 2, 2-E & 3 (AMD), subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Division of Fire's approval of emergency access and fire hydrant locations.
7. Division of Waste Management's approval of refuse collection.
8. Correct metes & bounds (curve data) information.
9. Clarify note #11 regarding the off-site detention.
10. Resolve the gate house/easement conflicts.
11. Division of Parks and Recreation's approval of proposed off-site parking.
12. Resolve the median changes and gate house in Seton Drive right-of-way and gate house in Manor Drive.
13. Resolve timing of the development with street closure and any possible need for a waiver to the Land Subdivision Regulations.

- c. DP 2011-79: COLDSTREAM RESEARCH CAMPUS, LOTS 7 & 8 (10/30/11)* - located at 1676 McGrathiana Parkway. (Council District 2) **(Strand Associates)**

The Subdivision Committee Recommended: **Approval**, subject to the following conditions:

* - Denotes date by which Commission must either approve or disapprove plan.

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Clarify floor area ratio in the site statistics.
10. Denote: No occupancy permit shall be issued until the new public street has been constructed to the acceptance of the Division of Engineering, and dedicated.
11. Resolve stormwater detention location/information.
12. Discuss amount of parking proposed.

Staff Presentation – Mr. Taylor identified this final development plan on the regular Meeting Agenda, and noted that the subject property is located at 1676 McGrathiana Parkway. He said that this request is also for a preliminary subdivision plan (Lot 7), as well as the final development plan (Lot 8).

Mr. Taylor directed the Commission's attention to an aerial photograph and briefly oriented them to the subject property and surrounding street system. He said that the Commission had previously approved a development plan for Lot 9, but construction of that lot is only half completed, with 1 of the 2 approved buildings constructed.

Mr. Taylor directed the Commission's attention to the rendered development plan and said that the applicant is proposing a 4-story professional office building with approximately 128,000 square feet of office space. This property is zoned P-2. The applicant has submitted a minor amended development plan for Lot 9 and when approved, it would allow access into the subject property. He noted that the minor amended development plan would need to be approved prior to the certification of this request. Mr. Taylor said that the applicant is also proposing a public street off McGrathiana Parkway between Lots 7 & 8 that will end in a cul-de-sac. He said that the proposed street will be entirely on Lot 7, and other than being adjacent, will not have an effect on the development of Lot 8. He said that should the Commission approve this request, construction of the street could begin and it could be dedicated as a public street at a later time.

In reference to a question from Ms. Roche-Phillips, Mr. Taylor directed the Commission's attention to an aerial photograph and clarified the location of the subject property, as well as to the location of the proposed cul-de-sac.

Mr. Taylor said that prior to today's meeting, the applicant and representatives of the Coldstream Research Campus met with LFUCG staff members from the Divisions of Planning and Engineering, and the Department of Environmental Quality to discuss the development plan's conditions listed on the agenda. He said that the applicant needed to resolve the stormwater detention location and provide the necessary information on the proposed plan. He then said that there are a series of notes related to stormwater plans that date back to the 1991 zone change for the Coldstream Research Campus; and over the years these notes have been streamlined, revised or updated. With different divisions of the government being created, such as the Department of Water Quality, the staff wanted to discuss those notes and refine them, if needed, to provide clarification. He directed the Commission's attention to the following proposed revisions, and said that all parties are in the process of finalizing the stormwater notes:

"Proposed Revisions

2007 Special Notes

No underground storage tanks shall be allowed on this property.

The lessees of each parcel shall be required to comply with all applicable local, state and federal hazardous materials regulations.

In addition to all requirements related to hazardous materials, the Design Review Committee (Committee) shall require the Lessee of each parcel to provide the Committee and the Coldstream Research Campus Management with written identification of and management plans for hazardous materials or any other substance utilized within its facilities, which due to its quantity, may in the opinion of the Committee present a substantial risk of pollution as a condition of and subject to the Committee's final approval.

In the event governmental approval of any of the hazardous materials management plans referred to herein above is required by applicable local, state or federal regulation, the Committee and the Coldstream Research Campus Management shall require written evidence of such approval.

* - Denotes date by which Commission must either approve or disapprove plan.

The Committee shall require the lessee of each parcel to provide the Committee and the Coldstream Research Campus Management with detailed design plans and written management plans for the control and containment of accidental spills or leakage in loading dock and transfer areas, as a condition of and subject to the Committee's final approval. Each lessee shall consult and coordinate the formulation of such plans with the Lexington-Fayette Urban County Government Division of Environmental and Emergency Management.

Prior to the issuance of a Building Permit by the LFUCG, the Committee shall require the lessee of each parcel to provide the Committee and the Coldstream Research Campus Management with detailed design plans and written maintenance/management plans for the retention of the "first flush" of storm water runoff on site as a condition of and subject to the Committee's final approval. "First flush" in this case will be considered the first 1/4" of rainfall.

Coldstream Research Campus Management agrees that all tenants within the Coldstream Research Campus will be required to comply with the Phase II Well Protection Plan Submittal Georgetown Municipal Water Service PWS ID# 1050157."

Mr. Taylor said that the since the stormwater notes are still being reviewed, the staff is recommending that condition #9 remain, noting that as part of the required signoff, both the Division of Engineering (condition #1) and the Department of Environmental Quality (condition #6) are listed.

Mr. Taylor said that condition #10 came about through the amount of parking being proposed for the site. The P-2 zone requires this site to have 276 parking spaces, and the applicant is proposing 559 parking spaces that will be broken into two phases. The first phase would consist of 349 parking spaces and the second phase would consist of 210. He said that the Subdivision Committee had concerns with the timing of the parking; and they wanted to make sure, at the time the second phase started, that the current standards were being followed. He said that the staff is recommending that the applicant denote on the plan that at the time the parking is proposed for "future phase" it will comply with all applicable laws (condition #10). He then said that this condition was added to address the Subdivision Committee's concerns, and not require an amended development plan to be submitted in the future.

Mr. Taylor said that the staff is recommending approval, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
- ~~9. Clarify floor area ratio in the site.~~
- ~~10. Denote: No occupancy permit shall be issued until the new public street has been constructed to the acceptance of the Division of Engineering, and dedicated.~~
- ~~9.~~ 11. Resolve stormwater detention location/information.
- ~~10.~~ 12. Discuss amount of Denote: At the time parking proposed for "future phase" is constructed, it will comply with all applicable laws.

Representation – Sara Tuttle, Strand Associates, along with Jim Hodge, Wyatt, Tarrant & Combs, as well as Jerry Tepe, with Al Neyer, was present representing the applicant. She noted that the University of Kentucky will be building the proposed street on Lot 7, and said that she was also representing them, as well.

Ms. Tuttle gave an overview of the Tempur Pedic Company, and said that the technology was first introduced by way of the National Aeronautics and Space Administration (NASA), and perfected by an individual from Sweden. She said that the Lexington Headquarters was established in 1993, and there are approximately 300 employees with the possibility of another 65 more employees being added in the future. She said that the manufacturing plants are located in Virginia, New Mexico and Denmark, and the product is sold in 7 countries. Ms. Tuttle said that the Tempur Pedic Company wants to remain in Lexington, and they enjoy the view shed of Coldstream Research Park, as well as the easy access to the interstate and airports.

Ms. Tuttle gave a brief description of the employee amenities, and noted that this facility will provide office space only; there will be no manufacturing plant. She said that the parking ratio for Coldstream is 2.5 parking spaces per 1,000 square feet area. She then said that when the P-2 zone was created, it was understood that there would be manufacturing plants in this area, as well as the potential for laboratory spaces. These types of uses do not require the same amount of parking as an office space. She said that the P-1 zone requires 5 parking spaces per 1,000 square feet of floor area. Ms. Tuttle said that the first phase of this development is proposing 3.12 parking spaces per 1,000 sq. ft. of area; and if there is the need, this proposal could comply with 5 spaces per 1,000 sq. ft. She then

said that they are trying to be environmentally friendly by only building 349 parking spaces; then at a later time, the remaining spaces could be built.

Note: Mr. Paulsen departed at this time.

Ms. Tuttle directed the Commission's attention to the rendered development plan and said that the area to the rear of the property will not be paved at this time. At the request of the Coldstream Design Review Committee, the smaller landscape islands will not be constructed in order to allow open space inside the parking lot. She then said that they have taken their proposal to the Coldstream Design Review Committee and have received approval of this layout. She noted that the Coldstream Research Campus has been approved for 2,383 parking spaces, and there are 1,630 parking spaces at this time. She said that for the first phase of this proposal, they are requesting 349 parking spaces.

Ms. Tuttle said that the stormwater notes for the Coldstream Research Campus have evolved since 1991, and they have been working with the staff to update these notes to today's standards. She said that the Tempur Pedic Company is on a timeline to have this development plan certified and building completed in order to occupy this building by the beginning of the year 2013. She said that they are in agreement with the staff's recommendations, and requested approval.

Audience Comment – The Chair asked if anyone in the audience wished to discuss this request for approval. There was no response.

Planning Commission Questions – Ms. Copeland noted that there is a concern with the parking overage, and said that, as it stands, the Commission will be given the applicant permission to build 1½ times the amount of parking that is required. She then said that condition #10 reads: "Denote: At the time parking proposed for 'future phase' is constructed, it will comply with all applicable laws." She asked about the possibility of reciprocal parking. Ms. Copeland noted that in speaking with the Transportation staff, the Citation area could become part of the Park and Ride program. She asked if the applicant would be willing to grant an area on site for this program. Ms. Copeland suggested that condition #10 be changed to read: "Denote: At the time parking proposed for 'future phase' is constructed, it will comply with all applicable laws and common practice." Ms. Tuttle commented that it is common practice to drive to work in your own car. She said that given the looseness of the phrases "common practice" and "applicable laws," she asked if they determine that they need to make changes if they would be given permission under this condition. She noted that an "applicable law" would be to have a maximum parking limit; but at this time, there are no such requirements for any zones, except for the mixed use. She said that should there be a maximum parking restriction, a text amendment would need to be approved. At that time they would have the option to make changes prior to that restriction being intact. She said that she is an advocate for maximum parking; and given the situation at Coldstream, the parking requirements are so low that this development would be in compliance even if that restriction were imposed. She then said that the Coldstream Research Campus was intended for manufacturing plants and laboratories, both of which have very low parking requirements. The existing uses in Coldstream are not what was originally intended for this area, and those uses have considerably more parking than what is needed. She said that when comparing this proposal to the existing uses in the Coldstream development, the parking proposed for this office building is low. Ms. Tuttle explained that the current uses in the Coldstream Research Campus have more parking than what is required due to the P-2 zone being inadequate, noting that there are no maximum limits set for the parking.

Ms. Copeland said that she understood, but to have an active bus route in the Coldstream Research Campus, at least 25 people need to participate in the program. She then said that if everyone took that approach, then there would be no incentive to offer the Park and Ride program or for there to be mass transportation service, which would benefit everyone. She said that if the Commission sets this precedent, then it has to be done for every development in the future. Ms. Tuttle said that they are not willing to agree to that request unless the Planning Commission dictates it.

Mr. Hodge noted that he is an avid user of a Tempur Pedic mattress, and briefly explained his history of how he came about to rely on the Tempur Pedic Company. He said that he had asked, his wife the former Commissioner of Law, if there had ever been a concern with a developer having too much off-street parking, and her answer was no. He then said that this area was developed for a specific piece of property; but when reviewing the Zoning Ordinance, the P-2 zone requirements are virtually the same as the P-1 zone requirements. Mr. Hodge said that based upon the proposed plan for this site, this development is actually more similar to a P-1 use. He then said that the proposed parking for this development is much more in line with the P-2 zone.

Mr. Hodge briefly explained the history of this land, and noted that Coldstream Research Campus had been sitting idle for years due to no demand for land in the P-2 and the ED zones. He said that Coldstream has been used as an example as a failed development in past arguments for residential uses in this area.

Mr. Hodge said that what is being developed on this land is the beginning of a successful area. He then said that this P-2 project has been planned for growth; and when comparing the proposed parking of this development to parking for commercial developments, this request is very conservative.

* - Denotes date by which Commission must either approve or disapprove plan.

Mr. Hodge said that as for maximum parking limits, that really is controlled through the open space requirement for this zone. He then said that the open space requirement is very stringent and there must be over 50% of the lot retained for open space. This request is in compliance with that requirement. He said that there is no reason for this request to be disapproved due to an overage in parking. He then said that they hope the Commission supports this project because it would be good for the city.

Mr. Hodge said that, as for the Park and Ride program, he had spoken to employee representatives for this area, and they have voiced that they would enjoy having that amenity for the Coldstream Research Campus. He then said that everything must be planned and they are not intending to build the parking spaces unless it is needed due to the cost. He noted that there is not, and will not be, any reciprocal parking for this development. Due to the way Coldstream is developing, each development is responsible for its own internal parking.

Mr. Hodge said that this development is a prime piece of land that will provide growth for the city, and they want to develop this area in accordance to the plan. He said that they will do everything they can to facilitate mass transit, and they will only build the parking that is needed for this development. Mr. Hodge requested that the Planning Commission approve this request.

Planning Commission Comments – Ms. Blanton said that she does not support the additional restrictions, and she believes this is a good plan for this area. She then said that they need to keep this tenant here, and she supports this request as it is proposed.

Mr. King said that when the Office Industry and Research Park concept for mixed use and employment was first introduced in the 1988 Comprehensive Plan, he was personally involved in writing the Ordinance for this zone. He then said that it was a very conscious decision to set the parking limit very low due to the wide range of uses being proposed. They were aware that some of these developments would be packed with employee parking while others would not. He said that the parking was set at a low number because people will generally not pay for more parking than what is needed. He then said that with the very high open space requirement for this area, it would ensure a campus-like atmosphere.

Mr. Owens said that the open space requirement is the key for this development; and with the additional storm water fees, the parking will not be built unless it is needed.

Action - A motion was made by Ms. Beatty, seconded by Mr. Brewer, and carried 7-0 (Cravens, Paulsen and Wilson absent) to approve DP 2011-79: COLDSTREAM RESEARCH CAMPUS, LOTS 7 & 8, subject to the following conditions:

1. Urban County Engineer's acceptance of drainage, storm and sanitary sewers.
2. Urban County Traffic Engineer's approval of street cross-sections and access.
3. Building Inspection's approval of landscaping and landscape buffers.
4. Addressing Office's approval of street names and addresses.
5. Urban Forester's approval of tree protection plan.
6. Department of Environmental Quality's approval of environmentally sensitive areas.
7. Division of Fire's approval of emergency access and fire hydrant locations.
8. Division of Waste Management's approval of refuse collection.
9. Resolve stormwater detention location/information.
10. Denote: At the time parking proposed for future phase is constructed, it will comply with all applicable laws.

- C. PERFORMANCE BONDS AND LETTERS OF CREDIT** – Any bonds or letters of credit requiring Commission action will be considered at this time. The Division of Engineering will report at the meeting.

Action - A motion was made by Ms. Roche-Phillips, seconded by Mr. Brewer, and carried 7-0 (Cravens, Paulen and Wilson absent) to approve the release and call of bonds as detailed in the memorandum dated September 8, 2011, from Ron St. Clair, Division of Engineering.

- V. COMMISSION ITEMS** – The Chair announced that any item a Commission member would like to present would be heard at this time.

- VI. STAFF ITEMS** – The Chair announced that any item a Staff member would like to present would be heard at this time.

- A. UPCOMING WORK SESSION** – Mr. King reminded the Commission members of the upcoming work session scheduled for September 15, 2011. He noted that the Goals and Objectives of the Comprehensive Plan would be presented to the Commission.

- VII. AUDIENCE ITEMS** – Citizens may bring a planning related matter before the Commission at this time for general discussion or future action. Items that will NOT be heard are those requiring the Commission's formal action, such as zoning items for early rehearing, map or text amendments; subdivision or development plans, etc. These last mentioned items must be filed in advance of this meeting in conformance with the adopted filing schedule.

VIII. NEXT MEETING DATES –

Work Session, Thursday, 1:30 p.m., 2 nd Floor Council Chambers	September 15, 2011
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (Phoenix Building)	September 28, 2011
Zoning Items Public Hearing , Thursday, 1:30 p.m., 2 nd Floor Council Chambers.....	September 22, 2011
Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (Phoenix Building)	October 6, 2011
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (Phoenix Building)	October 6, 2011
Subdivision Items Public Meeting , Thursday, 1:30 p.m., 2 nd Floor Council Chambers	October 13, 2011

- IX. ADJOURNMENT** - There being no further business, a motion was made to adjourn the meeting at 3:25 PM.

Mike Cravens, Chair

Lynn Roche-Phillips, Secretary